

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA	)	
	)	
v.	)	CR. NO. 94-10305-MLW
	)	
JOSE GUZMAN	)	
	)	

MEMORANDUM AND ORDER

WOLF, D.J.

March 17, 2008

Defendant Jose Guzman is serving a 210 month sentence for, among other things, conspiring to possess cocaine base with intent to distribute it. As a result of Amendment 706 to the United States Sentencing Guidelines ("U.S.S.G."), which generally retroactively reduces by two levels the offense level for crimes involving crack cocaine and became effective March 3, 2008, Guzman moved for a reduction of his sentence pursuant to 18 U.S.C. §3582(c)(2) and U.S.S.G. §2B1.10 (the "Motion"). As Guzman is indigent, counsel was appointed to represent him. The government has responded to the Motion.

The government correctly acknowledges that Guzman is eligible for a reduction of his sentence. It also asserts that no hearing is necessary or appropriate. See Fed. R. Crim. P. 43(b)(4) (stating that defendant need not be present for a reduction of sentence under 18 U.S.C. § 3582(c)). The government recommends that Guzman receive the full benefit of the retroactive amendment because "neither considerations of public safety, nor defendant's conduct while in the custody of the Bureau of Prisons, warrants

denial of the sentence reduction to which he is otherwise entitled." Government's Response to Defendant's Motion for Reduction of Sentence at 6-7 n.2; see also U.S.S.G. §1B1.10. A.N. 1(B)(ii) & (iii). Therefore, the government requests that to implement this recommendation the court resentence the defendant to "Time Served."

The court agrees. Therefore, it is hereby ORDERED that:

1. The Motion (Docket No. 123) is ALLOWED.
2. The defendant's sentence is REDUCED to Time Served.
3. The term and conditions of Supervised Release previously imposed are not altered.
4. The attached Order Regarding Motion for Sentence Reduction Pursuant to 18 U.S.C. §3582(c)(2) and an Amended Judgment shall enter forthwith.

/s/ Mark L. Wolf  
UNITED STATES DISTRICT JUDGE